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IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH

THE STATE OF UTAH,	:	
Plaintiff,	:	AFFIDAVIT OF PROBABLE CAUSE
vs.	:	
RICHARD CULBERTSON,	:	Case No. _____
DOB: January 2, 1953	:	
KATHLEEN J. CULBERTSON,	:	Case No. _____
DOB: March 13, 1956	:	
Defendants.	:	Judge _____

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

I, DOUGLAS TOWNSEND, being first duly sworn upon oath, depose
and state as follows:

I am an Agent for the Utah Attorney General's Office.
I have been a police officer for twenty-four years, during that

time I have investigated Financial Crimes for fourteen years, preparing cases for criminal prosecution. I was previously employed as an Agent with the Utah Department of Public Safety, Financial Crimes Unit.

Special Agent Leo Lucey, of the Utah Attorney General's Office, and I have personally investigated this matter and have reviewed documents and conducted interviews with: Carlos Alamilla and Kurtis Hughes, Investigators from the Utah Division of Real Estate; Nathan Barnum; Ashley Barnum; Paul Rice, and others. I have reason to believe the facts herein are true and correct.

PARTIES

Richard Culbertson, is a current resident at 3133 East Cedar Pass Road, Eagle Mountain, Utah 84043. He is an attorney and licensed realtor.

Kathleen J. Culbertson, is a current resident at 3133 East Cedar Pass Road, Eagle Mountain, Utah 84043. She is married to Richard Culbertson.

Nathan Barnum, is a current resident at 3226 Katherine Drive, Magna, Utah 84044. He is Richard Culbertson's son-in-law.

Ashley Barnum, is a current resident at 3226 Katherine Drive, Magna Utah 84044. She is Richard Culbertson's daughter.

Taylor, Bean and Whitaker Mortgage, 1417 N. Magnolia Avenue, Oscala, Florida 34425, is a lending institution that funded loan applications submitted by Richard Culbertson.

Argent Mortgage Company, LLC., 2603 Main Street, Irvine, California 92614, is a lending institution that funded loan applications submitted by Richard Culbertson.

SUMMARY

Through interviews with Nathan and Ashley Barnum and a review of Real Estate Documents, this affiant has found that Richard Culbertson and Kathy Culbertson solicited and paid several persons to allow Richard and Kathy Culbertson to use that person's name and credit rating to purchase property for Richard and Kathy Culbertson. Loan applications using false information were submitted by Richard and Kathy Culbertson to lenders indicating the properties would be owner occupied by the person named within the loan application; several properties remained vacant. Richard and Kathy Culbertson also submitted loan applications that contained false, inflated incomes of persons named within the applications. Richard Culbertson submitted loan applications that contained forged signatures of persons named within the applications. Richard and Kathy Culbertson submitted loan applications containing representations to the lenders that certain improvements such as

finished basements and landscaping would be performed. Real Estate Agreements and loan applications show that funds designated for such finish work were used by Richard Culbertson for personal use. Real Estate Agreements, and loan applications show the funds obtained for work not completed were disbursed not only to Richard Culbertson directly, but also to a limited liability company in which Kathy Culbertson is a member and the registered agent.

ADMISSIONS

Mr. Culbertson has made the following admissions to investigators for the Utah Division of Real Estate during personal interviews:

1. Mr. Culbertson used Ashley Barnum's identity, social security number and purported income to purchase a residence at 3133 Cedar Pass Road, Eagle Mountain, Utah. Even though the loan application stated Ashley Barnum would be the owner occupant of the residence, Richard and Kathy Culbertson reside within the residence.
2. Richard Culbertson forged Ashley Barnum's signature upon the Real Estate Purchase Contract and other related documents submitted by Richard Culbertson for property at 106 East Seven Iron Court, Saratoga Springs, Utah.
3. Richard Culbertson or Kathy Culbertson inflated the

stated income of Ashley Barnum to obtain a higher loan upon property at 3133 Cedar Pass Road, Eagle Mountain, Utah, and also property at 106 East Seven Iron Court, Saratoga Springs, Utah. The stated income exceeded actual income by \$12,000 to \$16,000 per month.

4. Mr. Culbertson obtained and submitted a false inflated appraisal in order to obtain additional funds on a property at 2976 East Cedar Pass Road, Eagle Mountain, Utah.
5. Mr. Culbertson acquired funds for his personal benefit by submitting the inflated appraisal for property at 2976 East Cedar Pass Road, Eagle Mountain, Utah.
6. Mr. Culbertson diverted proceeds from loans to limited liability companies controlled by Mr. Culbertson as part of the scheme to conceal the cash flow from the lenders.
7. Although he had no permission or written authorization, or power of attorney, Mr. Culbertson signed and submitted loan applications for and on behalf of other individuals.

COUNT 1
COMMUNICATIONS FRAUD
a second degree felony

Richard and Kathy Culbertson requested that Nathan and Ashley Barnum sign loan request documents for property located at 42

Pioneer Circle, Saratoga Springs, Utah, for a loan from Taylor, Bean and Whitaker Mortgage. On November 5, 2007, Nathan Barnum reviewed the real estate documents that had been submitted by Richard Culbertson. Nathan Barnum's reported income had been inflated by \$14,000.00.

**COUNT 2
COMMUNICATIONS FRAUD
a second degree felony**

On December 7, 2007 this Affiant interviewed Ashley Barnum. She reviewed loan documents which had been submitted by Richard Culbertson for a requested loan from Argent Mortgage Company, LLC. Ashley Barnum told this Affiant that Richard Culbertson had falsified her income on all loan applications used by Richard Culbertson to purchase properties in her name, including the property at *2976 Cedar Pass Road, Eagle Mountain, Utah*. All submitted loan documents showed a purported income for Ashley Barnum when she, in fact, was unemployed, and was a stay-at-home mother.

At the time of the interview, Ashley Barnum identified three documents related to the property at *2676 Cedar Pass Road, Eagle Mountain*, which contained her forged signature. She indicated the writing upon the forged documents appeared to be Richard Culbertson's.

At the time of the interview, Ashley Barnum reviewed a copy of the loan payout schedule. The payout schedule shows Richard Culbertson personally received \$59,324.16. Ashley Barnum told this Affiant that she was never aware that Richard Culbertson was personally taking money from the loans for which her name was being used.

Ashley Barnum told this Affiant that the \$59,324.16 taken by Richard Culbertson appeared to be money designated in loan documents for finish work and landscaping at 2676 Cedar Pass Road. Ashley Barnum said she had personal knowledge that the finish work and landscaping was not done.

Ashley Barnum told this Affiant that she had prior conversations with Richard and Kathy Culbertson in which the Culbertsons advised Ashley Barnum it was normal to file appraisals showing anticipated work to be done, but keeping that money for personal use.

COUNT 3
COMMUNICATIONS FRAUD
a second degree felony

On December 7, 2007, Ashley Barnum was shown documents for a property located at *3133 East Cedar Pass Road, Eagle Mountain, Utah* 84043. On the document titled DISCLOSURE NOTICES, AFFIDAVIT OF OCCUPANCY, it is checked as Primary Residence. This document is

signed by Ashley Barnum dated August 3, 2006. Ashley told your Affiant that this residence was actually the residence of her father Richard Culbertson and her stepmother Kathy Culbertson. Ashley told your affiant that the Culbertsons lived in this residence at the time they approached Ashley to take a loan out in her name as the primary resident, so that they could get a lower mortgage payment. Ashley said that the Culbertsons never intended to move out of the residence and that Ashley and her family never intended to occupy the residence. On the UNIFORM RESIDENTIAL LOAN APPLICATION the box is also checked as Primary Residence. On this same document the stated income for Ashley Barnum is listed as \$11,000.00 per month. On the document titled ADDENDUM NO. TO REAL ESTATE PURCHASE CONTRACT, Ashley Barnum said that the signature on that document bearing her name, dated July 14, 2006 is not her signature. Ashley recognizes the handwriting to be that of her father, Richard Culbertson.

COUNT 4
PATTERN OF UNLAWFUL ACTIVITY
a second degree felony

Commencing in or about August 2006, the defendants engaged in conduct which constituted the commission of at least three episodes of unlawful activity as defined in Utah Code Ann. § 76-10-1601 (1995). The defendants: (1) received proceeds derived, directly

or indirectly, from a pattern of unlawful activity as more fully defined above, in which they participated as a principal, or they used or invested, directly or indirectly, any part of that income, or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of any interest in, or establishment or operation of, any enterprise; (2) through a pattern of unlawful activity acquired or maintained, directly or indirectly, any interest in or control of any enterprise; or (3) was employed by, or associated with any enterprise and conducted or participated, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity. The unlawful activity included three or more violations of communications fraud, theft, and forgery. This is a violation of Utah Code Ann. §76-10-1601 and § 76-10-1603(5) (1995), et seq., a second degree felony.

SUMMARY

There is probable cause to believe that the defendants **RICHARD CULBERTSON**, committed the offense(s) of:

COMMUNICATIONS FRAUD
a second degree felony, 3 counts

PATTERN OF UNLAWFUL ACTIVITY
a second degree felony, 1 count

There is probable cause to believe that the defendant
KATHLEEN J. CULBERTSON committed the offense(s) of:

COMMUNICATIONS FRAUD
a second degree felony, 3 counts

PATTERN OF UNLAWFUL ACTIVITY
a second degree felony, 1 count

DATED this _____ day of _____, 2008.

DOUG TOWNSEND, Affiant

SUBSCRIBED AND SWORN to before me
On this ____ day of _____,
2008.

JUDGE, Fourth Judicial District Court